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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MARKET-DOMINANT PRICE CHANGE	Docket No. R2023-1

COMMENTS OF THE
NATIONAL POSTAL POLICY COUNCIL
(November 7, 2022)

The National Postal Policy Council ("NPPC")[1] hereby respectfully submits these comments on the Postal Service's notice of market-dominant price adjustments.[2] In these comments, NPPC will address:

- the discouraging effects of a second large rate increase imposed within six months on mailers subject to the Postal Service's legal monopoly, including a compounded increase of 10.68 percent for Presort Letters/Cards and a 16 percent increase for Flats, coupled with the continued lack of any explanation by the Postal Service of its pricing strategy;

- the partial improvement in First-Class Mail workshare discount passthroughs, which is offset by the continued failure to price the 5-Digit Automation Letter rate efficiently; and

- the Postal Service's proposed promotions in First-Class Mail and how the Postal Service could use promotions even more effectively.

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1 The National Postal Policy Council is an association of large business users of letter mail, primarily First-Class Mail using the Automation rate category, with member companies from the telecommunications, banking and financial services, insurance, and mail services industries. NPPC members account for a large majority of the Presort Letters and Card (hereinafter "Presort Mail") in the postal system and work closely with the Postal Service on worksharing and many other efforts to make their mail as efficient and low cost as possible.

2 *United States Postal Service Notice of Market-Dominant Price Change*, Docket No. R2023-1 (October 7, 2022) ("*USPS Notice*"). The Commission issued public notice in Order No. 6296. *Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products*, Docket No. R2032-1 (October 11, 2022).

I. THE CONTINUED INCREASES IN FIRST-CLASS MAIL RATES DEMONSTRATES THE ABSENCE OF ANY MEANINGFUL CONSTRAINT ON THE POSTAL SERVICE'S ABILITY TO RAISE RATES FOR MONOPOLY SERVICES

The noticed rate increases will be the second in six months, coming on the heels of the July 2022 increase. The noticed increase of 4.200 percent, effective January 22, 2023, so soon after the 6.507 percent overall class increase this past July, means that First-Class mailers are facing a compounded rate increase of 11 percent in 6 months. And this is for a class that easily covers its attributable costs.

At the product level, the increases are as follows:

Product	July 2022 Increase	January 2023 Increase	Compounded Increase
Single Piece Letters & Cards	5.245%	5.046%	10.56%
Presort Letters & Cards	6.863%	3.568%	10.68%
Flats	9.204%	6.214%	15.99%

The July 2022 increases were larger primarily because those increases included the density and retirement factors. Although the Postal Service could not use them again, they remain embedded in current rates and thus provide a higher base upon which the latest increases are added.[3]

[3] NPPC notes that if the Postal Service properly accounts for its employees' accrued costs in the Annual Compliance Report for FY2022, there should be zero density factor next year. *See Motion for Reconsideration of Response to the Postal Service's Proposed Changes to Accepted Analytical Principles* (October 13, 2022).

Looking solely at letter rate categories that are of primary interest to NPPC members, the increases in the last six months are:

Product	July 2022 Increase	January 2023 Increase	Compounded Increase
Single Piece stamped	3.4%	5.0%	8.6%
Single Piece Metered	7.5%	5.3%	13.2%
MAADC Automation	6.2%	3.1%	9.5%
AADC Automation	6.5%	3.3%	10.0%
5-Digit Automation	6.8%	3.5%	10.5%

In addition to these eye-popping rate increases,[4] First-Class and other market-dominant mailers have now experienced a full year of deliberately slowed service (*see* Docket No. N2021-1) and continue to suffer, as they have for seven years, from service that failed – for every single First-Class Mail product—to meet the Postal Service's self-imposed targets, much less the published standards.[5]

Business mailers already have much on their plates. Having to respond to, or accommodate, two substantial increases in six months imposes unwelcome burdens. These are financial: corporate mailing budgets are set well in advance of a fiscal year

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4 The increases are even more extraordinary when counted since August of 2021, a period of fewer than 17 months. The compounded increases for First-Class Mail are 18.5 percent. Congress has granted the Postal Service a monopoly, but also established the Commission to regulate for the benefit of business mailers and the general public subject to that monopoly. The Commission must remain vigilant to protect against excessive rates, shifting uncompensated costs to mailers, or service reductions, all of which are factors in the bottom line costs businesses consider in their postal budgeting and decisions on continued use.

5 *See* Postal Regulatory Commission, *Annual Compliance Determination Fiscal Year 2021*, at 140 & Figure V-12; (Mar. 29, 2022) ("*ACD FY21*").

and may underestimate future inflation rates. When rate increases eat into set budgets, the most natural and likely response is to reduce mail. The Postal Service's consistent loss of First-Class volume is consistent with that. *E.g.*, *USPS Financial Information (Unaudited) August 2022* at 2 (showing 3.2 percent decline in year-to-date First-Class Mail volume over SPLY). And there are substantial compliance costs in adjusting to new mailing requirements, updating software, and the myriad of other obligations imposed on businesses that need to use the post. That this is the second increase in six months doubles these difficulties, diverting postal budgets from actual mail to modifying software and other business processes.

For rate changes for Market-Dominant products, the Commission's role is to establish the system by which such rates are regulated (39 U.S.C. §3622). By law, that system requires the Postal Service file a Schedule for Regular and Predictable Rate Adjustments. 39 U.S.C. §3622(d)(1)(B) & 39 C.F.R. §3030.102. But the Postal Service can change that schedule with no notice. Although the Postal Service must provide at least 45-day public notice of any adjustment in rates for Market-Dominant products (39 U.S.C. §3622(d)(1)(C)), a period which by regulation the Commission has expanded to at least 90 days, nothing in the current system prohibits multiple rate changes in a single year. 39 C.F.R. §3030.121(c). NPPC urges the Commission to consider whether there are actions it can take to discourage the Postal Service from filing multiple rate changes in a twelve-month period.

Mailers might be more understanding if the Postal Service were to provide a coherent explanation of its pricing strategy or of why, despite having accumulated nearly $21 billion in cash on its balance sheet,[6] higher rates are needed now. But the *USPS Notice* contains no such explanation, nor does it describe how the price changes in this proceeding fit into any broad pricing strategy to improve Market-Dominant mail. And, unfortunately, there is no discussion of how pricing may encourage mailers to increase their use of the system.

Neither the Commission's regulations nor the statute requires the Postal Service to explain why it needs the money, or what strategy it seeks to implement through prices. Nonetheless, such a discussion would help mailers, particularly business mailers that regularly must decide whether to make substantial investments in mailing equipment, software, and related services, understand the Postal Service's plans. The Commission should consider requiring such an explanation.

In practice, the Postal Service appears to try to give more or less equal rate increases to different groups of mailers over a period of a year or so. That may be a strategy, but it is not one designed to fashion a sustained effort to promote low-cost and efficient mail. However, if that is the Postal Service's pricing strategy, it has not said so.

Indeed, the only policy guidance of which NPPC is aware is found in the Delivering for America Plan. The only reference to that in the *USPS Notice* (at 1) is to say that rate increases are part of the plan. That Plan states the Postal Service's intention to use the Market-Dominant ratesetting system devised in Docket No. RM2017-3 for "optimizing revenues and contribution within the constraints of the regulatory system.[7] This will include judicious and appropriate use of the rate

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6 *See Monthly Statement of the Public Debt of the United States* (September 30, 2022).

7 *United States Postal Service, Delivering for America* at 46.

authorities provided by the PRC" allowing above-inflation rate adjustments. But that does not constitute a pricing strategy.

Several rate cases into the new system, the Postal Service is all about "optimizing" and seems to have forgotten about "judicious." And indeed, nothing in the current system ensures that increases are "judicious"[8] or – as Objectives 1 and 8 require -- whether they maximize incentives to reduce costs or increase efficiency or are "reasonable." The Commission's expectations regarding the Postal Service's use of the pricing authorities adopted in Docket No. RM2017-3 have proven unfounded. For example, Order No. 5763 accepted the Postal Service's assertion that it would be "attentive to not allowing rates to increase too sharply, notwithstanding its market power." Order No. 5763 at 314. And it further stated that "sufficient controls" would protect against the Service using its additional rate authorities to price aggressively in support of its "near-term interests but potentially threaten its longer-term interests." Order No. 5763 at 346 & n.446.

Those purported controls are failing to protect mailers from the Postal Service's market power. The Commission should not sit idle while First-Class letters continue to flee the postal system in the face of the Postal Service's clearly expressed intention to continue to hammer mailers with maximum prices increases. The Commission's stated plan is not even to *commence* a review – much less complete, a process that could take years -- of the system adopted in Docket No. RM2017-3 until November of 2025. One wonders whether there will be enough mail left in the system by that point for a review

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[8] *See United States Postal Service, FY 2021 Annual Report to Congress*, at 32 (summarizing Delivering for America Plan).

for any relief to matter, or whether years of excessive, above-inflation rate increases coupled with slower service have driven mailers permanently out of the mailstream.

As of this date, two petitions for review of the current system are pending before the Commission in Dockets Nos. RM2022-5 and RM2022-6. NPPC urges the Commission to grant those petitions promptly and commence a review of the current system without further delay.

II. THE PROPOSED WORKSHARE DISCOUNTS SHOW BOTH IMPROVEMENT AND THE FLAWS IN THE CURRENT RULE

In Docket No. RM2017-3, the Commission adopted regulations that generally require workshare discount passthroughs to be set at 100 percent of the costs avoided,[9] although the Commission also established exceptions that allow passthroughs as low as 85 percent and still lower in particular circumstances. *See* 39 C.F.R. §3030.280 *et seq*. The *USPS Notice* is the third time that the Postal Service has adjusted rates since the Commission adopted these rules. The Postal Service is to be commended for moving some discounts towards 100 percent passthroughs, consistent with and perhaps spurred by the new regulation, but the Postal Service's approach to discounts continues to suggest that stronger rules are necessary.

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[9] NPPC explained in the FY 2021 ACR that the actual passthroughs are likely smaller because they are based on outdated costs due to the mismatch between future rates and the prior year costs upon which they are based. *See Comments of the National Postal Policy Council*, Docket No. ACR2021, at 7-9 (January 31, 2022). The discounts in this case will take effect in January 2023 but are based on data from October 1, 2020, through September 30, 2021. The Commission acknowledged this mismatch between forward-looking prices and backward-looking stale costs in the FY 2021 annual compliance review but focused on assessing compliance with the workshare discount rules, not with the adequacy of those rules to promote efficiency. *ACD FY21* at 16-17. It did not address NPPC's primary point, which is that the nominal passthroughs upon which discounts are based in rate adjustment dockets generally understate the costs avoided. To promote pricing efficiency, the Commission should require proposed discounts, such as those in this case, at least o be materially closer to 100 percent.

Here are the First-Class Mail workshare discount passthroughs presented in the *USPS Notice*:

	Current Passthrough %	Proposed Passthrough %
Mixed AADC Nonauto Letters	68.75	84.37
AADC Nonauto Mach Letters	91.67	91.67
Mixed AADC Auto Letters	74.32	93.24
AADC Auto Letters	96.00	96.00
5-Digit Letters	85.71	85.71
Mixed AADC Auto Cards	100.00	100.00
AADC Auto Cards	100.00	100.00
5-Digit Auto Cards	100.00	100.00
Mixed ADC Auto Flats	85.61	85.61
ADC Auto Flats	85.51	85.51
5-Digit Auto Flats	100.00	100.00

These rates illustrate both good and not so good features of the new workshare discount regulations adopted in Order No. 5763. All but one of the First-Class Mail discounts passthrough at least the minimum 85 percent of the avoided costs, which is an improvement over the past. Consistent with the new rules, the passthroughs for Mixed AADC Nonautomation Letters and Mixed AADC Automation Letters are improved over Docket No. R2022-1, although the former remains below 85 percent.

The Postal Service made no change in the other passthroughs. For those already set at 100 percent passthrough, the new rules have worked as intended. Those remain set at the optimally efficient level.

However, discounts not already at 100 percent were not increased by even a mil, but instead were kept at sub-optimal levels. Despite those passthroughs being less than 100 percent, the current regulation does not require them to be increased because they were already at least 85 percent. 39 C.F.R. §3030.284(e).

The single most important of the sub-optimal discounts is the 5-Digit Automation Letter rate, the profitable rate category in First-Class Mail. It accounts for nearly ¾ of the Automation volume (*United States Postal Service Annual Compliance Report FY2021*, at 8 & Table 2) and provides the largest volume and the greatest revenue of any First-Class Mail rate category. *See USPS CAP-CALC-FCM-R2023-1*. Yet despite its central importance, the Service repeatedly has been unwilling to set that rate equal to avoided costs. Instead, the Postal Service prefers to anchor it to the minimum 85 percent passthrough.

The Mixed ADC Automation and ADC Automation Flats discounts provide another example. This is the second consecutive rate filing in which the Postal Service missed an opportunity to promote more efficient mail preparation for First-Class Flats. In both Docket No. R2022-1 and this case, the Postal Service set the passthrough for those two discounts barely above 85 percent. Given the Postal Service's chronic inability to control flats costs, and that First-Class Flats are considered a non-compensatory product, those discounts should have been set these much closer to 100 percent.

In sum, NPPC believes that the Commission's new discount rules generally are moving discounts closer to efficient passthroughs and maintaining those that are 100 percent at that level. However, it is also becoming apparent that the regulation should be improved in several respects.

First, as discussed above, the Commission should not allow passthroughs that are at least 85 percent, but less than 100 percent, to remain unchanged. When the Commission adopted the current workshare discount rules, it stated that it would consider revisiting the rules if over time it appeared that the Postal Service "is attempting to use the 85 percent passthrough floor as a 'safe harbor' for below avoided-costs workshare discounts and is not taking steps to move those discounts towards ECP." Order No. 5763, at 212-213. The Commission used almost identical language in its recent Annual Compliance Determination for FY2021. *Annual Compliance Determination FY2021*, at 24 (Mar. 29, 2022). The treatment of the 5-Digit Automation Letter and ADC and Mixed ADC Flats discounts looks like just such a safe harbor, warranting the Commission's taking a closer look at the 85 percent lower bound.

Second, the Commission should require discounts below the 85 percent minimum to receive larger increases. The current regulation allows incremental increases of 20 percent in the absolute amount of the discount. But it can take years to move an inefficient discount to even the 85 percent level at that pace.

Third, the Commission should consider requiring 100% passthroughs for workshare discounts, such as the Mixed ADC and ADC Flats Automation discounts, in underwater products to force more efficient operations and reduce Postal Service costs.

Finally, the Commission should set a floor on the passthroughs for new discounts. Consider the proposed three new SCF pallet discounts in USPS Marketing Mail. The largest passthrough for any of these is 36.4 percent, and the lowest is 9.1

percent. *Notice* at 29-20 & USPS-LR-R2023-1/2, *CAPCALC-USPSMM_R2-23-1, Tab USPS MM HD-Sat Flts-Prcls*. Under the current rule, decades could pass before these rates approach an efficient passthrough.

III. THE FIRST-CLASS MAIL PROMOTIONS ARE GENERALLY COMMENDABLE AND THE POSTAL SERVICE SHOULD CONSIDER ADDITIONAL WAYS TO EXPAND THEIR USE

NPPC members make substantial use of the Postal Service's promotions, particularly but not exclusively in First-Class Mail. As a general matter, NPPC commends the Postal Service for continuing to offer promotions as incentives to mailers to seek new opportunities to use mail effectively to retain or increase volume. At the same time, the Postal Service could do more to make the promotions more user-friendly and therefore more successful. It should also consider making these incentives permanent and offering incentives aimed at reducing costs.

In this docket, NPPC commends the Postal Service for offering new Retargeting and the Reply Mail IMbA discounts in First-Class Mail. Also, the Postal Service is not only continuing the Informed Delivery promotion at the current level but is also adding a mailer preparer incentive as well. The latter recognizes the vital role that mail preparers play in the business mailstream.

NPPC members also support the increased promotional discount for the Tactile, Sensory, and Interactive Mailpiece Engagement Promotion and Emerging and Advanced Technology promotions. In addition, several NPPC members have welcomed the lengthening, by one month, of the latter discount. In their experience, participating in that promotion involves extensive time and cost and the longer period will make participation more appealing.

On the other hand, the Postal Service chose not to continue the Earned Value and Mobile Shopping discounts in their current form. For example, the now-discontinued Earned Value discount was popular, and mailers found participation in it to be straightforward. Although aspects of the Earned Value promotion are now being integrated into the Personalized Color Transpromo promotion, that promotion is sufficiently different that some users of the current promotion will find continued participation to be problematic. Mobile Shopping now appears to be subsumed in the Emerging and Advanced Technology promotion.

Although not directly relevant to the Commission's review in this docket, NPPC nevertheless feels a need to reiterate, as it has said in past cases, that for promotions to achieve optimal results the Postal Service must provide timely advance information. In this case, both the Personalized Color Transpromo and Tactile, Sensory, and Interactive Mailpiece First-Class Mail promotions are scheduled to start on February 1, 2023. As of this filing, however, the Postal Service has not released the technical requirements for participation in either, and the February 1 start date gives mailers – who are now entering the busy holiday season – little time to evaluate the promotions or prepare to participate. While those promotions will run for six months, the current lack of details will make it very challenging for mailers to participate from the outset.

Other changes may make it more difficult for current participants to continue than the Postal Service might anticipate. For example, it appears that to participate in the Personalized Color Transpromo promotion some mailers will need to run separate print/preparation productions for billing notices that contain courtesy reply envelopes and for those that do not (typically directed to online pay accounts). Mailers that currently run those together will have to assess whether the promotional discount will justify the additional time and cost of separate runs. NPPC encourages the Postal Service to explore with mailers how such problems might be overcome.

Finally, while NPPC certainly commends the Postal Service for continuing to use promotions to encourage volume retention and growth, it should also consider using promotions and discounts more aggressively not only for volume purposes but also to reduce costs.

One way to do so would be to eliminate the different treatment of volume and cost saving incentives. Currently, incentives to spur volume are temporary, while incentives to reduce postal costs are permanently embedded in the Mail Classification Schedule,[10] to the substantial and ongoing mutual benefit of both the Postal Service and its customers. The Postal Service should consider converting some promotions into permanent year-round incentives to achieve similar ongoing benefits. Conversely, the Postal Service should also consider whether it could offer promotions designed more to encourage new forms of cost reductions rather than increasing volumes, or perhaps both simultaneously.

IV. CONCLUSION

The National Postal Policy Council urges the Commission to consider these comments as it evaluates the Postal Service's *Notice*, and to consider initiating a

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[10] These include, for example, workshare discounts and other items, such as the Intelligent Mail barcode incentive.

rulemaking to revise Rules 3030.221 and 3030.284(e) in a manner consistent with these comments.

Respectfully submitted,

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